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SUMMARY RECORD OF THE 13th MEETING

Chairman: Mrs. FLORES (Uruguay)

CONTENTS

AGENDA ITEM 152: QUESTION OF RESPONSIBILITY FOR ATTACKS ON UNITED NATIONS AND ASSOCIATED PERSONNEL AND MEASURES TO ENSURE THAT THOSE RESPONSIBLE FOR SUCH ATTACKS ARE BROUGHT TO JUSTICE (continued)

AGENDA ITEM 140: MEASURES TO ELIMINATE INTERNATIONAL TERRORISM

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The meeting was called to order at 10.20 a.m.

AGENDA ITEM 152: QUESTION OF RESPONSIBILITY FOR ATTACKS ON UNITED NATIONS AND ASSOCIATED PERSONNEL AND MEASURES TO ENSURE THAT THOSE RESPONSIBLE FOR SUCH ATTACKS ARE BROUGHT TO JUSTICE (continued) (A/48/144; A/C.6/48/L.2 and L.3)

1. Mr. KEATING (New Zealand) said that according to the Secretary-General's report on the security of United Nations operations, in addition to the 97 military casualties suffered by peace-keeping troops in the first half of 1993, there had been many deaths and injuries to United Nations civilian personnel during that same period. Civilian deaths were completely unacceptable; so too were the deaths of those soldiers, who had been acting in the cause of peace and on behalf of the international community and had been entitled to expect from Member States the best possible physical and legal protection. The same could be said for those providing humanitarian relief to the victims of conflict.

2. The issue of the safety of United Nations personnel had been considered by the Security Council, at the initiative of New Zealand during it presidency in the month of March, within the framework of the Agenda for Peace. While there had been a firm consensus on the need to adopt practical and political measures to enhance the safety and security of United Nations forces and personnel, the matter had been left to one side because of hesitation regarding the Council's competence to pronounce on the legal question of personal responsibility. The Secretary-General had been asked to prepare a report on the adequacy of existing arrangements for the protection of United Nations forces and personnel. Shortly afterwards, the Special Committee on Peace-keeping Operations had decided that it would, in the light of the report to be submitted by the Secretary-General, consider what further steps might be taken to enhance the safety of that personnel and would examine, inter alia, the possibility of elaborating a legal instrument to that end.

3. The Secretary-General's report had contained various practical proposals and had emphasized the need to coordinate the activities of the various United Nations organs operating in that area. Noteworthy among the responses to the Secretary-General's report was the adoption by the Security Council of resolution 868 (1993), in which the Council had declared that when considering the establishment of future United Nations operations, a number of steps had to be taken to ensure the safety and security of the operation and the personnel involved.

4. The report reaffirmed that longer-term and more permanent responses were needed, among them, the development of a new international instrument. The current session provided the General Assembly with an opportunity to respond in its turn to the Secretary-General's report, through discussion in the Fourth Committee, which would deal with the political aspects of the issue, and in the Sixth Committee, which would address the specifically legal aspects of the problem.

5. The Sixth Committee had to determine whether its task should be to compile or codify the existing regimes governing peace-keeping or to develop more precise measures in those areas in which international law could make a unique

(Mr. Keating, New Zealand)

contribution to the protection of peace-keeping personnel. The former approach would require a re-examination of the obligations that States had already accepted through their adherence to such instruments as the Convention on the Privileges and Immunities of the United Nations, the various agreements between the United Nations and the countries hosting peace-keeping operations and, to the extent applicable, the Geneva Conventions and the Additional Protocols. After much deliberation, the New Zealand authorities had concluded that a narrower and more focused approach was likely to be more effective, timelier and more appropriate to the gravity and urgency of the situation. While the legal regime governing peace-keeping operations was spread throughout various instruments, that had not presented an obstacle to ensuring the safety of United Nations personnel as long as the authorities in the host State were able to ensure effective compliance with the obligations assumed by that State.

6. The real legal problem arose when there was no effective government or where a government was unable to exercise jurisdiction throughout its territory in a manner which could guarantee the security of peace-keeping personnel. In such circumstances, the choice was either to submit to the dictates of those defining the law or resort to the use of arms, on behalf of the United Nations, as provided for under Chapter VII of the Charter. In his country's view, such a forced choice was intolerable. The international community had to develop an effective legal response so that those attacking United Nations personnel would be fully cognizant that they bore personal responsibility for their acts and that there was an effective international regime under which they would be held accountable; in other words, that they could not proceed with impunity and would be brought to justice.

7. The draft Convention submitted by New Zealand and contained in document A/C.6/48/L.2 relied upon other international conventions - such as the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, and the International Convention against the Taking of Hostages - and the basic principle of "prosecute or extradite" in respect of persons who were found in the territory of a party and were suspected of having committed acts considered by the international community to be criminal. The basic idea was that attacks on United Nations personnel should be identified as international crimes.

8. Another question which arose was whether the draft Convention would apply to entities which were not parties to it, in particular when such entities were not States. That issue had already been raised in the drafting of other conventions, and the solution had been to focus on individual criminal responsibility rather than on the responsibility of States and organizations. Thus, the obligation on States, once the suspect was found, was simply to extradite or prosecute; it was irrelevant whether the entity sponsoring the suspect or the suspect's country of origin accepted the Convention or not.

9. The Secretary-General's report suggested that a case could not be made for distinguishing between the different categories of United Nations personnel, or even for denying protection to independent contractors acting on behalf of the Organization or to non-governmental organizations which had some form of special arrangement with it. New Zealand had no objection to extending the scope of the Convention and, accordingly, proposed that such protection should cover:

(Mr. Keating, New Zealand)

(a) personnel of traditional peace-keeping operations deployed by the Security Council, namely, military, police and associated civilian personnel who were usually provided by Member States for the purposes of a particular operation but were subject to the authority of the Secretary-General, as well as the civilian staff deployed by the Secretary-General in connection with the operation; (b) personnel deployed by the Secretary-General, or by a specialized or related agency of the United Nations system, in connection with an operation mandated by the Security Council, which would include, in particular, humanitarian relief personnel; and (c) personnel deployed by any humanitarian organization or agency to carry out activities in connection with an operation mandated by the Council and pursuant to an agreement with the Secretary-General.

10. In conclusion, he suggested that the Sixth Committee might make an innovation in its working methods by establishing a working group to allow for an exchange of views and enable the Committee to advance its work on the question during the current session. Although he was aware of the limited time available and the financial constraints of the Organization, he felt that it was essential to establish the group, as that would be the most productive course for making further progress.

11. He welcomed the draft Convention submitted by Ukraine, which did not differ in any fundamental aspect from the New Zealand draft. It simply reflected certain different conclusions as to the nature of the most pressing problems confronting the United Nations and how they should most effectively be addressed.

12. Mr. KHANDOGY (Ukraine) said that his Government attached special importance to the question of the safety of personnel involved in United Nations peace-keeping and related activities, not only because Ukraine had become a troop-contributing country, but also because continuing attacks on the "Blue Helmets" threatened to undermine popular support for the concept of peace-keeping as an effective vehicle for ensuring a negotiated solution to conflicts. The disturbing numbers of casualties among United Nations peace-keeping and associated personnel resulting from deliberate hostile actions made it necessary to take practical steps aimed at creating the necessary operational, political and legal environment for dealing effectively with the problem of the growing vulnerability of the international personnel deployed in the field.

13. What was lacking was a universal, legally binding international instrument that would bring together all existing norms of international law, in particular international humanitarian law, that might be applicable to the personnel of the United Nations force and associated civilian personnel, as well as provisions contained in various status-of-forces agreements and other bilateral and multilateral arrangements concluded in that regard. Naturally, recent experience and practice of the United Nations and of Member States might suggest certain new approaches to the issue and lead to the elaboration of new norms. Hence, it was encouraging to note the conclusion contained in the report of the Secretary-General on the issue of security of United Nations operations (A/48/349), to the effect that in the long term, a new international instrument could be elaborated in order to codify and further develop international law relating to the security and safety of United Nations forces and personnel. That conclusion should leave no doubt as to the validity of the idea of a

(Mr. Khandogy, Ukraine)

convention, which had been extensively debated in different forums since it had been first proposed by Ukraine in August 1992.

14. During 1992, the General Assembly had unanimously adopted resolution 47/72, which requested the Special Committee on Peace-keeping Operations to study other measures to ensure the safety of peace-keeping and other United Nations personnel.

15. The evolution of the concept of safety was reflected in General Assembly resolution 47/120, on an Agenda for Peace, which stressed the need for adequate protection of personnel involved in preventive diplomacy, peacemaking, peace-keeping and humanitarian operations, in accordance with the relevant norms and principles of international law.

16. The Special Committee's exchange of views on the question in April 1993 had led to the adoption by consensus of a recommendation to the General Assembly to consider in what forum a coherent, legally binding international instrument to reinforce existing arrangements regarding the status and safety of United Nations personnel might be developed.

17. The issue of the safety of the personnel had also been the subject of intense consultations among the members of the Security Council, resulting in a statement by the President of the Council (S/25493). On 29 September 1993, the Security Council had adopted resolution 868 (1993), which welcomed the report of the Secretary-General and determined a number of concrete measures to ensure the safety of United Nations personnel.

18. As a follow-up to General Assembly resolution 47/72, in April 1993 his delegation had submitted for the consideration of the Special Committee a working paper containing a draft international convention on the status and safety of the personnel of the United Nations force and associated civilian personnel. On that occasion, his delegation had expressed the view that the most prudent approach would be to recommend to the General Assembly the establishment of an ad hoc working group within the framework of the Main Committee of the forty-eighth session to which the agenda item on peace-keeping would be allocated. Following the inclusion of agenda item 152 and its allocation to the Sixth Committee, his delegation had supported an arrangement to establish a working group within the framework of the Committee to consider all proposals regarding a convention on the matter.

19. Having agreed to that approach as a reasonable and practical one, his delegation would like to stress that it still considered that the security of United Nations personnel was a multifaceted and complex issue where legal, political and other aspects were closely interrelated. Thus, a legal instrument in that area should deal with a wide range of problems.

20. Certainly the question of legal responsibility for attacks on United Nations and associated personnel was probably at the heart of the issue of safety. However, his delegation was not convinced of the advisability of taking it out of a broader context and translating it into a separate convention. In the view of his delegation, the question of responsibility, which included a number of difficult and even controversial problems, should be addressed in a

(Mr. Khandogy, Ukraine)

wider political and legal framework. In that connection, his delegation shared the approach of the Secretary-General to the effect that the adoption of a new instrument would make possible the consolidation in a single document of the set of principles and obligations contained in current multilateral and bilateral treaties, as well as provide an opportunity to codify and further develop customary international law as reflected in the recent practice of the United Nations and Member States.

21. His delegation also agreed that in drawing up a convention on the safety of United Nations personnel, it would be impossible to avoid the issue of possibly extending certain of the privileges and immunities accorded at present to the Organization and its personnel to civilian contractors, non-governmental organizations and their personnel who were engaged in United Nations operations through contractual or other arrangements.

22. After summarizing the draft Convention which was before the Committee (A/C.6/48/L.3), he stressed that it was not, of course, the final say on the subject-matter, but an attempt to provoke constructive discussion and try to arrive at mutually acceptable approaches as to how the General Assembly could be instrumental in filling certain gaps in the existing legal system.

23. His delegation fully realized that the conclusion of an international instrument with regard to the safety of personnel might be a long-term goal, because its entry into force would require some time, and its effectiveness would depend on the number of States accepting to be bound by its provisions. That should not be a reason for disappointment and hasty decisions. What was important was that a comprehensive document should be developed which could provide maximum protection for persons serving in the field and contribute to the ongoing efforts aimed at halting the wave of criminal acts against United Nations peace-keeping and other personnel. His delegation was willing to cooperate in finding mutually acceptable solutions to the problem of enhancing the security of United Nations personnel.

AGENDA ITEM 140: MEASURES TO ELIMINATE INTERNATIONAL TERRORISM (continued) (A/48/225-S/26009, A/48/267 and Corr.1 and Add.1, A/48/291-S/26242 and A/48/314-S/26304; A/C.6/48/4)

24. The CHAIRMAN invited the Sixth Committee to resume its consideration of agenda item 140, "Measures to eliminate international terrorism", and drew the attention of delegations to a new document distributed the previous day (A/C.6/48/4), transmitting a letter from the Permanent Mission of the Commonwealth of Independent States and the Permanent Missions of the Republic of Georgia and the Republic of Moldova, to which was annexed a statement on terrorism.

25. Mr. WALDEN (Israel) said that as long as the scourge of terrorism, aimed against mankind's aspiration for peace, continued to exist, the international community could not relax its efforts to combat it.

26. Much had already been achieved in establishing a framework for national and international cooperation, and he trusted that advances would continue to be made. On the multilateral level, conventions on different aspects of terrorism

(Mr. Walden, Israel)

had been adopted and widely ratified. International organizations and conferences had reinforced the international community's total repudiation and condemnation of terrorism through the adoption of resolutions in the Commission on Human Rights, the Subcommission on Prevention of Discrimination and Protection of Minorities, the World Conference on Human Rights and in the Sixth Committee itself.

27. The degree of unanimity achieved was striking, especially in comparison with earlier dissension, and it would be instructive to consider the reasons for that development. In part, it was attributable to the growing realization that, even apart from moral considerations, terrorism was a weapon that could not be directed or controlled and was too dangerous to be let loose. For that reason, it was increasingly recognized that some methods were so intrinsically evil that they could not be employed, no matter what aims they were intended to achieve. Another reason for the consensus was the emphasis that had been placed on building on concepts that were held in common and setting aside those on which there was no agreement. That had meant, first, agreeing on certain fundamental principles with regard to international cooperation in the fight against terrorism. They included the principle that terrorists must be punished or extradited (aut punire aut dedere) and that of the harmonization of legal definitions, so that no terrorist could slip through the net of differing legal concepts in different countries. Above all, the principle must be established that no terrorist should escape punishment or extradition on the ground that his acts were of a political nature. No less important was that, once found guilty and punished, terrorists should be sure that they would have to serve their sentences and would not be released on one pretext or another after only a short time.

28. Another lesson that could be learned from the progress made so far was the value of tackling aspects of terrorism item by item, rather than attempting to overcome the entire problem at one blow. Specific aspects of terrorism had been dealt with, and solid results had thus been achieved; it would be desirable for the international community to identify further aspects and formulate similar approaches to them. At the same time, it must be remembered that international terrorism could not be fought by words and paper strategies alone. Those strategies must be put into practice through State action and international cooperation. Israel had called for joint international endeavours in fields such as intelligence gathering, information exchange and other preventive efforts to defeat terrorism. The debate in the Sixth Committee and the resolutions adopted by the Committee were an important focus for efforts to combat terrorism. It was important that the resolutions should continue to serve that role, and that meant avoiding the dangers of divisiveness and overambition. With regard to the first danger, much had been achieved in the effort to eliminate tendentious formulations that seriously weakened the denunciation of terrorism. The second danger must continue to be avoided. For example, all delegations had their views about the definition of terrorism, but experience showed that, for the time being, a generally agreed definition was not obtainable and trying to obtain such a definition could weaken the measure of international agreement already attained.

29. For the same reason, he doubted the value of an international conference on terrorism, which might, instead of focusing on specific and manageable problems,

(Mr. Walden, Israel)

give rise to theoretical debate and highlight disagreements, rather than the considerable and growing amount of agreement already achieved. For that reason, efforts should be concentrated on further developing those approaches that had already proved their value. The coordination and harmonization of national efforts and the adoption of conventions on specific aspects of the problem were some of the ways that should continue to be pursued in order to eliminate that evil.

30. Mr. GHAFOORZAI (Afghanistan) said that the horrifying phenomenon of terrorism had undoubtedly jeopardized collective efforts to bring about a safer world for present and succeeding generations. It had negatively affected the realization of the principles of international law and the application of international conventions and instruments for strengthening international security and the territorial integrity and safety of States.

31. In accordance with the principles of its foreign policy, Afghanistan had traditionally supported the struggle of peoples subject to colonial rule or other forms of aggression or domination, but it had categorically condemned terrorism in all its forms. As the Minister for Foreign Affairs of Afghanistan had stated in the General Assembly, the Afghan nation, which had itself been the victim of terrorism, was opposed to terrorism in any form and would never tolerate it or allow its territory to be used for terrorist acts. The killing of innocent people was abhorrent to Afghan religious beliefs and traditions.

32. In connection with General Assembly resolution 46/51, the Government of Afghanistan wished to express full support for all measures being undertaken by the United Nations and the international community in general to combat and eliminate international terrorism and it stood ready to join in regional and international efforts through the initiation of effective measures to combat that scourge. Because of the country's circumstances and the fact that the long years of war and destruction had prevented the rule of law in some regions, Afghanistan requested assistance and support for its efforts to bring about a more normal security situation and consolidate the rule of law, since it would then be able to contribute better and more effectively to international efforts to combat terrorism.

33. As an example of his country's concern about international terrorism, he noted that Afghanistan was a party to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, to the Convention on Offences and Certain Other Acts Committed on Board Aircraft and to the Convention on the Marking of Plastic Explosives for the Purpose of Detection. It had just decided also to accede to the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents.

34. As far as holding a United Nations international conference on terrorism was concerned, his delegation felt that it was necessary and timely to consider and discuss the causes of the problem and the factors involved in it, as well as ways and means of solving or eliminating it.

35. One of the basic considerations to be borne in mind in connection with the issue of international terrorism was that no definition had been adopted

(Mr. Ghafoorzai, Afghanistan)

distinguishing between terrorist acts and the legitimate struggle of peoples for liberation, for international law recognized the right to self-determination and independence. The formulation of a definition would encourage States to observe their obligations under the relevant international conventions and would facilitate international cooperation, perhaps through the drafting of a global strategy to combat international terrorism. In that connection, the Secretary-General could perhaps obtain comments from Member States regarding specific measures to be part of such a strategy. A world conference to combat international terrorism might be the right forum in which to discuss the idea.

36. Mr. MAJDI (Morocco) said that his delegation welcomed the Secretary-General's report on the item before the Committee (A/48/267), as well as the unanimity that the international community had shown in combating terrorism in all its forms.

37. Morocco remained resolutely opposed to terrorism and spared no effort in suppressing that crime. Its determination was rooted in the Muslim faith, whose principles and teachings condemned the taking of innocent human life, the destruction of property and extremism of any kind. Thus it had always welcomed General Assembly and Security Council resolutions designed to eliminate terrorism. In that connection, it should be mentioned that the Extraordinary Arab Summit Conference at Casablanca, Morocco, in May 1989 had also reaffirmed its condemnation of all forms and manifestations of terrorism, whatever their origin.

38. For preventive and punitive measures to be effective, it was necessary for the concept of terrorism to be defined precisely, given the conceptual disagreement surrounding it. Hasty generalizations and the merging of rightfully separate categories were to be avoided. The legitimate struggle of liberation movements recognized by regional intergovernmental organizations should not be equated with terrorism pure and simple.

39. His delegation believed that the new spirit in international relations should spur the international community to attempt to reconcile different points of view and adapt its conception of terrorism to the current situation. At the national level, countries should continue their efforts in the area of criminal law and begin to define more narrowly the acts and elements that constituted terrorism. Such efforts might be based on the conventions concluded in the context of such specialized agencies as the International Maritime Organization, the International Civil Aviation Organization and the International Atomic Energy Agency.

40. Furthermore, countries should strengthen their domestic laws on terrorism by incorporating new provisions adapting them to the conventions in force and by accelerating procedures for acceding to those conventions. It was necessary to strengthen both bilateral and regional cooperation among States. In that connection, since 1988 Morocco had participated actively and regularly alongside most of the European countries, the United States, Canada and Australia in the work of the Trevi group, one of whose objectives was combating terrorism.

41. Once the concept of terrorism had been defined, his country could accept the idea of convening an international conference on the question by consensus,

(Mr. Majdi, Morocco)

with a sound legal basis, for the purpose of establishing a legal framework for adopting an appropriate strategy.

42. Mr. ABOULMAGD (Egypt) said that, despite positive trends in the international situation - which pointed to a decrease in the world's ideological hazards - and despite efforts to combat international terrorism, humankind was still suffering the consequences of that phenomenon. Such was the price the international community paid for its inability to solve that terrible problem.

43. His delegation believed that, in order to fight terrorism effectively, it was necessary to comply with the norms of international law, to settle disputes by peaceful means, to respect the legitimate right of peoples to self-determination and to refrain from any measures that might promote the commission of terrorist acts. Furthermore, States should make every effort to prosecute the perpetrators of such criminal acts in accordance with the relevant international conventions. Lastly, it was essential to examine the underlying causes of terrorism and to try to eliminate them in order to eliminate the motive.

44. If terrorist acts committed by individuals or groups were condemnable, then they could not be accepted when perpetrated by States or legally constituted groups either. All States should agree to respect meticulously their obligations under international law or international conventions concluded for the purpose of combating international terrorism. As a matter of principle, Egypt had signed several such international instruments, including the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, the International Convention against the Taking of Hostages, the Convention on Offences and Certain Other Acts Committed on Board Aircraft and the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation. In 1993, Egypt had signed the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf.

45. In 1992, fundamental changes had been made in the Egyptian penal code in order to combat terrorism more effectively and adapt Egyptian law to the international instruments that his country had accepted. One noteworthy change had been a broader definition of terrorism aimed at encompassing all of its forms and manifestations. At the same time, in view of the deterrent effect of punishment, more stringent penalties had been established for such premeditated criminal acts. In practice, it was necessary to place terrorism in its social, cultural and political context. That sometimes meant taking exceptional measures against those who were responsible for that crime. States needed the assistance of the international community in accomplishing that task.

46. International terrorism was a world-wide phenomenon to which all States were exposed. For that reason, it was the responsibility of the international community to provide a point of departure for any efforts to combat or eliminate terrorism. The international community should not limit its cooperation to the drafting of legal instruments, but should tackle the problem in all its forms by implementing the relevant legal instruments and, above all, exchanging information and extraditing the criminals.

(Mr. Aboulmagd, Egypt)

47. It was right to acknowledge the importance of protecting the rights and freedoms of innocent civilians the world over. At the same time, however, the phenomenon of terrorism should be approached with objectivity and fairness, since occupied States had the same rights to freedom, security and independence.

48. In many cases, States subject to foreign oppression were brought to the point of despair, from whence sprang the force that drove them to resort to violence and terrorism. That was why creating a climate of trust and security among all the world's peoples was the best guarantee against the use of violence.

49. International cooperation would be effective in the struggle against terrorism only if all States participated in that collective undertaking. The increasing importance attributed to that dangerous phenomenon was therefore to be welcomed. Egypt wished to state once again that it would work unstintingly to ensure the continuation of such cooperation until the common goal could be achieved.

50. Mr. OBEIDAT (Jordan) reiterated his delegation's condemnation of all acts and forms of terrorism, whatever the causes, goals or circumstances. The existing international conventions on terrorism, several of which Jordan had ratified, served as a very good foundation for preventing and eliminating terrorism. Nevertheless, the individual efforts of States should be enhanced by the joint efforts of the international community.

51. His delegation, like others, wished to voice its concern at the attempt to link the religion of Islam with terrorism. In that connection, he recalled the address of Crown Prince El-Hassan Bin Talal to the General Assembly earlier in the month, in which he had said that extremism existed throughout the world and not only in the Muslim world.

52. Terrorism should not obscure the right of peoples to self-determination, which was one of the essential principles of the Charter of the United Nations. The time had come to convene an international conference on the prevention and elimination of terrorism, to consider, among other matters, ways of defining terrorism and distancing it from the right of peoples to self-determination.

53. Mr. CASTELLI (Argentina) said that his country unreservedly condemned terrorist acts in all their forms and manifestations and reaffirmed its commitment to strengthen international cooperation aimed at eliminating that scourge.

54. It was a difficult, although not impossible, task to define international terrorism precisely. In order to carry it out, basic agreements on fundamental questions would be required. Those agreements had still not been reached, and the time was therefore not yet ripe to convene an international conference for the purpose of defining the concept.

55. In order to prevent and suppress international terrorism, it would be more useful for the international community to intensify its efforts to promote measures of cooperation among Governments, through the adoption of conventions that regulated the concrete manifestations of terrorism, the exchange of

(Mr. Castelli, Argentina)

information, the harmonization of national legislation, the trying or extradition of the perpetrators of terrorist acts, and refraining from all forms of instigation, assistance or acceptance of the organization of terrorist acts against other States.

56. Mr. OMAR (Libyan Arab Jamahiriya) said that the international community continued to attach great importance to international terrorism, which was natural in view of the consequences of terrorism, just as it was natural for the General Assembly to continue to make efforts to eliminate that phenomenon.

57. In response to the request contained in General Assembly resolution 46/51, the Libyan Arab Jamahiriya had communicated its opinions on terrorism and on ways of combating it, which had been included in document A/48/267. It had reiterated its vigorous condemnation of all forms and practices of terrorism and had supported all the relevant resolutions adopted by the General Assembly over the previous two decades. It had earlier requested the convening of a special session to consider the question in all its aspects. In addition, it had acceded to most of the international treaties aimed at combating terrorism, including the Conventions of Tokyo, the Hague and Montreal concerning the security of civil aviation. It had also enacted legislation to punish those guilty of acts of terrorism.

58. The Libyan Arab Jamahiriya supported the proposal to convene an international conference, under the auspices of the United Nations, to seek agreement on a clear definition of terrorism, to thoroughly review the problem in all its aspects and to seek ways of combating the phenomenon. While it was not easy to define international terrorism, there were sufficiently urgent reasons, both legal and political in nature, to impel the international community to undertake that task.

59. No act could be considered criminal unless such accusation was proven beyond doubt. In the absence of a precise definition of international terrorism, it was not difficult to label arbitrarily as terrorist a given State or group of believers of a particular religious faith. That type of calumny did not contribute to the creation of a propitious climate for the development of friendly relations among States.

60. The end of the cold war and other recent international developments could contribute to the search for a precise definition of terrorism. In undertaking that task, account must be taken of the preamble to General Assembly resolution 46/51, which referred to the inalienable right to self-determination of all peoples under foreign occupation and, in particular, to the struggle of national liberation movements.

61. The Libyan Arab Jamahiriya commended the Committee on the seriousness with which it approached the question of international terrorism. It was regrettable, however, that in the debate on that topic three delegations had brought up the Lockerbie affair, a matter which was currently before the Security Council. The problem was not with the fact that the matter had been raised but rather with the manner in which it had been raised, which might be considered a violation of the international legal principles enshrined in human rights instruments. Those included the principle that an accused person was

(Mr. Omar, Libyan Arab Jamahiriya)

innocent until proven guilty. With respect to the Lockerbie affair, the Committee, which had a specific mandate to consider legal matters, could not reach hasty conclusions, which were based solely on suspicion.

62. It was not the appropriate time to enter into details about the manner in which international terrorism had been linked to a mere suspicion that two Libyan nationals had been involved in the case or about the pressures exerted to prevail upon the Security Council to take action under Chapter VII of the Charter instead of under Chapter VI. Nevertheless, the matter should not escape the Committee's attention.

63. The position of the Libyan Arab Jamahiriya on the matter had been set forth in various official documents of the Security Council, particularly those issued under the symbols S/23917, S/23918 and S/24961. In those documents, the Libyan Government reiterated its categorical condemnation of terrorism in all its forms, declared that there were no training camps for terrorists in its territory and invited the Security Council or any international organ designated by the Council to verify that claim on the ground. It also stated that the Libyan Arab Jamahiriya did not permit its territory, nationals or institutions to be used, either directly or indirectly, in the commission of terrorist acts and that the country was prepared to impose the severest penalties on those responsible for such acts. The Libyan Arab Jamahiriya had cooperated constructively with the Government of the United Kingdom on the case. However, its actions had been deemed insufficient by the three States concerned, which had rejected the Libyan proposal to send a fact-finding mission to its territory, perhaps in order to have a pretext for maintaining the sanctions against the Libyan Arab Jamahiriya on the grounds of non-compliance with the resolutions of the Security Council.

64. Nevertheless, the Libyan initiatives and efforts had been acknowledged and welcomed by the Council of Ministers of the Organization of African Unity, which had met at Cairo in June 1993. In conclusion, he wished to add that the Libyan position was not limited to the sponsoring of General Assembly resolutions, accession to international instruments and the enactment of national legislation to combat terrorism. Its role had been more active, and it had intervened on behalf of victims of terrorism, as in the case of the Belgian nationals who had been freed after being detained on board a vessel and in another, similar case involving Japanese nationals.

65. Mr. AHMED (Iraq) said that his delegation condemned terrorism in all its forms, regardless of the aims sought, as a flagrant violation of human rights which endangered international peace and security, and supported the efforts being made, especially by the United Nations, to eradicate it. Iraq's position on the subject was contained in document A/48/267.

66. Iraq had acceded to all the international agreements concluded for that purpose, and its national legislation contained severe penalties for anyone who perpetrated or participated in acts of terrorism.

67. Iraq stressed the importance of arriving at a clear definition of "international terrorism" that enjoyed the acceptance of the international community as a whole, for that would facilitate a solution of the controversial

(Mr. Ahmed, Iraq)

issues surrounding the subject. Consideration of the definition of terrorist acts must take into account practices and measures carried out by a State or a number of States using technologically sophisticated and other means of destruction in order to achieve hegemony and impose their supremacy and their policies on various pretexts. The number of victims of that type of terrorism was greater than the number of victims of terrorist acts committed by individuals.

68. Any serious treatment of the problem of terrorism must take into account the importance of a study and analysis of the underlying causes that contributed to the problem, especially some iniquitous international practices imposed on many parts of the world to further egoistic interests, including racist policies, foreign occupation and denial of the inalienable legitimate rights of peoples, particularly the right to self-determination and the right to determine the form of political regime. It must also take into account United Nations resolutions relating to the right to self-determination, the elimination of colonialism, the legitimacy of the struggle of peoples and their right to use appropriate means, including armed struggle, to achieve their aspirations for freedom and independence.

69. One of the major causes of the exacerbation of the problem of terrorism was the nurturing by States of separatist movements, self-proclaimed political opposition groups and armed revolt, in violation of the fundamental principles of international law.

70. The convening of an international conference under the auspices of the United Nations was essential for the study of the problem from all aspects and the proposal of appropriate solutions. The measures adopted to combat terrorism should not in any way encroach on the fundamental principles of human rights.

71. Mr. AL-BAKER (Qatar) said that all the resolutions adopted by the General Assembly on the item under consideration since it had first been included in the Assembly's agenda in 1972 stressed the relationship between international terrorism and its underlying causes, namely, colonialism, racism and foreign occupation. Those resolutions further emphasized that their purpose was not in any way to undermine the right of peoples to self-determination, independence and freedom. Such rights were embodied in the Charter of the United Nations and were inviolable, which meant that the right of oppressed peoples to fight for their freedom was also inviolable. Accordingly, the struggle waged by such peoples should not be equated with terrorism. While Qatar categorically rejected international terrorism, it reaffirmed the need to distinguish it from the legitimate fight for self-determination, which was fully in harmony with the purposes and principles of the Charter.

72. The situation of oppressed peoples had improved significantly since the previous session of the General Assembly, because of the resolution of some problems which they faced in exercising their rights, including the right to self-determination. For instance, major steps were being taken in South Africa towards the establishment of a genuinely democratic system, and progress had also been made in the context of the Arab-Israeli conflict. In that connection, it was to be hoped that the Palestinian people would be able to free itself from occupation and to establish an independent State.

(Mr. Al-Baker, Qatar)

73. Those developments made it possible to look towards the future with a degree of optimism, and provided grounds for the belief that recourse to violence in defence of nationalist causes would gradually diminish. The delegation of Qatar was convinced that international terrorism would disappear once the legitimate rights of oppressed peoples were restored to them. Nevertheless, the progress made and the optimism which it elicited did not mean that efforts to combat terrorism should be reduced; on the contrary, they must be strengthened, and that would require the cooperation of all States.

74. Lastly, the delegation of Qatar supported the proposal to hold an international conference on terrorism under the auspices of the United Nations.

75. Mr. AKRAM (Pakistan) said that General Assembly resolution 46/51 reflected the consensus existing in the international community on the issue of international terrorism and established the parameters for the Assembly's efforts to eradicate that plague in all its forms. While reference was frequently made to the difficulty of defining terrorism, that was true only in a legal sense, since everyone knew intuitively that terrorism was the use or threat of use of force or violence against innocent people, regardless of the motives. The international community should rely on that simple criterion, dictated by common sense, and on objective facts, rather than on subjective conclusions and presumptions. To that end, the United Nations should, whenever necessary, establish fact-finding missions as a basis for appropriate action. The United Nations would thus contribute to easing tensions between States and preventing discriminatory and unjust measures from being taken against some States.

76. Terrorism could take many forms; it might consist of individual or group violence against one or more innocent persons, as well as actions by the covert agencies of a State, which sought to subvert and sabotage other States through criminal actions against their civilian population. An example of that had been the attacks against Pakistan during the past 10 years, which had been aimed at eroding its support for the Afghan liberation struggle. When a State used violence against its own people, so as to violate their civil, political or economic rights, or when it sought to suppress the freedom of other peoples through occupation and aggression, using violence against another State's civilian population, that, too, could be regarded as terrorism. Indiscriminate killings, torture and summary executions, terrorist actions ordered by States in order to justify aggression or to defame other States, and subjecting religious minorities to persecution and terror also constituted acts of terrorism. Only when "State terrorism" was eliminated and Governments adhered fully to the principles of the Charter of the United Nations could persecuted peoples or groups struggling for survival be expected to adhere to standards of responsibility.

77. Since terrorism took many forms, it was essential to address it in its various manifestations, through appropriate and specific legislative and administrative mechanisms. His delegation fully endorsed the measures adopted against hijacking and hostage-taking, the steps taken to prevent crimes against internationally protected persons, and so on; it was essential that those measures should be implemented in every possible way. The international community should turn its attention to "State terrorism", which was currently

(Mr. Akram, Pakistan)

the most serious form of terrorism; Pakistan therefore proposed that the General Assembly consider the possibility of adopting an international convention to prevent all manifestations of "State terrorism". In that context, he recalled the Declaration adopted at the Tenth Conference of Heads of State or Government of Non-Aligned Countries, held at Jakarta in 1992, which condemned the use of State power against innocent civilians struggling to exercise their inalienable right to self-determination. Injustice and inequality were the root causes of almost all acts of terrorism and, for that reason, it was essential to eliminate all forms of colonialism, racism, alien domination, foreign occupation and infringements or denial of the right to self-determination.

78. Mr. BISSEMBER (Guyana) said that before measures to eliminate international terrorism could be devised, it would be necessary to define its constituent elements, in other words, to define an international act and an act of terrorism. One approach consisted of relating acts of international terrorism directly to the offences defined in international conventions, such as the Convention for the Suppression of Unlawful Seizure of Aircraft and the International Convention against the Taking of Hostages. In his delegation's view, the fact that those conventions were not universally applied or accepted meant that the definition was incomplete; that could be exploited, especially by States which were not parties to them.

79. Consequently, the international community should seek to determine the factors which made an act "international", and to distinguish between a criminal act which could be tried before a national tribunal, and an act of terrorism which was sufficiently "international" to require a separate process.

80. His Government believed that, in order to determine the measures to be adopted in order to eliminate pernicious acts of international terrorism, it was essential to solve some of those problems relating to definition. Even then, other questions would remain to be answered, such as whether jurisdiction to prosecute the act should fall to the State of which the victim was a national, the State in which the act was perpetrated or the perpetrator was found, or any State which had a suitable mechanism for prosecuting offences of that type. The question of the proper forum was, of course, connected with other issues, such as the legal system under which the matter should be tried, the applicable law and the constitutional requirement of a fair trial in one court of law, as opposed to another.

81. Effective measures to eliminate international terrorism could not be implemented unless the international community could find an answer to those preliminary, but not insubstantial issues. The notion that the establishment of an international criminal court could help to eliminate international terrorism constituted a valid basis for reflection. His delegation commended the work carried out by the Commission on that subject.

82. It might be fitting, but futile, to seek to determine whether a peaceful resolution of international conflicts throughout the world would lead to a reduction of terrorist acts. Some terrorists did not seem to be loyal to any flag and, as indicated earlier, the irrational nature of some acts of terrorism suggested that the objective conditions in the international environment had no impact on such persons.

(Mr. Bissember, Guyana)

83. It was clear that there was a need to move beyond mere rhetoric and to adopt specific and positive measures. One such measure could be the establishment of an international criminal court with specific jurisdiction to try cases, including those involving international terrorism. It appeared that the international conventions concluded to date had not had the deterrent effect required to reduce the number of such acts. Some might argue that conventions could not, in themselves, have such a deterrent effect, and that the concept of deterrence was not applicable to the type of irrationally minded individual who usually perpetrated such acts. The issue of the deterrent effect on the criminal mind might well exceed the realm of law and be better addressed in a socio-psychological context. That notwithstanding, it was clearly desirable to define properly the acts or omissions which constituted international terrorism and, at the same time, to establish a juridical basis for prosecuting those responsible. Through international cooperation, and with the appropriate enforcement mechanism, international legal systems could be sufficiently galvanized to enable the adoption of measures to eliminate terrorism.

84. Mr. AL-SABEEH (Kuwait) said that international terrorism was a danger to the security and stability of countries and people. His country had a special interest in combating terrorism because it had had bitter and direct experiences with it. State terrorism must be condemned in all its forms, as it constituted a flagrant violation of the Charter of the United Nations and a threat to international peace and security. Any convention on international cooperation should include provisions relating to the international responsibility of States which promoted terrorism in other countries. All States must universally condemn terrorism and make every effort to reduce and eradicate it over time, since it endangered international security, caused the death of innocent persons, spread chaos and anarchy and undermined trust in international relations. Terrorism also impeded the development of peoples and caused great injury to various cultures and religions.

85. At the same time, it was necessary to distinguish between terrorism and the struggle of peoples to throw off the yoke of colonialism and other forms of alien domination. For that reason, Kuwait supported the holding of an international conference under the auspices of the United Nations to define international terrorism. Eliminating international terrorism required maximum international cooperation. Lastly, he suggested that a number of measures should be adopted, namely, implementing a firm strategy to combat terrorism, boycotting or isolating States which exported terrorism or provided a haven for terrorists, denying asylum to terrorists, prohibiting the organization of terrorist acts, ensuring the detention, prosecution and extradition of those who committed terrorist acts, establishing cooperation between States for the purpose of exchanging information on the subject, refusing to negotiate with terrorists or to give in to their demands, acceding to bilateral, regional or international conventions and incorporating the provisions of existing conventions into the legislation of each country.

86. Mr. MIRZAEE-YENGEJEH (Islamic Republic of Iran) said that his country had been a victim of numerous acts of terrorism which had taken the lives of hundreds of people, including dignitaries and diplomatic officials, and caused substantial material damage. Iran found deeply regrettable that the perpetrators of such crimes had found safe havens or established headquarters in

(Mr. Mirzaee-Yengejeh,
Islamic Republic of Iran)

other countries and were continuing to commit terrorist acts. It therefore shared the international community's concern over international terrorism. Iran condemned all terrorist activities, whether committed by individuals, groups or States, had taken all the steps required to combat them, and had ratified a number of the conventions mentioned in the annex to the report of the Secretary-General (A/48/267).

87. Iran recognized that, over the past two decades, the international community had demonstrated its determination to curb international terrorism and had adopted a number of useful measures to that end, especially enforcement measures.

88. Nevertheless, the world had changed radically in recent years, and the time had come to take a fresh look at the issue, especially since punitive or enforcement measures alone could not eradicate international terrorism. Such measures should be accompanied by a comprehensive study of the underlying causes of international terrorism. In that connection, he recalled the recommendations of the Ad Hoc Committee on International Terrorism, an examination of which revealed the Committee's efforts to maintain a balance between enforcement measures and an emphasis on the analysis of those causes.

89. The time had also come for the Sixth Committee to define the notion of "international terrorism". While that was a difficult task, it was none the less necessary, especially in the context of the United Nations Decade of International Law, the purpose of which was to strengthen the rule of law, an aim which could not be achieved in the absence of clear rules. Once terrorism had been defined, the Committee could decide what the next step should be in the progressive development of the international law on terrorism. Such a definition would also put an end to the controversy over which acts constituted terrorism and which did not, especially in the context of the exercise of the legitimate right of peoples to struggle against colonialism, racism and foreign occupation. That right had been recognized in several legal instruments and had become deeply entrenched in international law. For its part, Iran deemed it necessary to define international terrorism and to differentiate it from the struggles of national liberation movements. The early completion of the draft Code of Crimes against the Peace and Security of Mankind and the statute of an international criminal court would contribute to the fight against terrorism and would be a major step towards bringing to justice the enemies of the peace and security of mankind.

The meeting rose at 1 p.m.